IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO.652 OF 2004
IN
WRIT PETITION NO.1863 OF 2002

Union of India & ors. .. .. Petitioners
v/s.
Smt.Medha R.Deshapnde & anr. .. Respondents

Mr.S.S.Karkera for respondent No.1 in support of motion.

Ms.S.V.Bharucha with Mr.R.C.Master i/by T.C.Kaushik for petitioners to show cause.

CORAM : H.L. GOKHALE &
ABHAY S. OKA, JJ.

DATED : 10th February 2006

P.C. :

1. Heard Mr.Karkera in support of this Motion which is taken out by the 1st respondent. Ms.Bharucha and Mr.Master appear for the petitioners.

2. This Motion has been taken out in view of the recovery started by the petitioners from the salary of the 1st respondent from the month of October 2004. The Motion was taken out immediately in November 2004 but has not reached for quite some time. It had reached earlier on 18th November 2005 when the matter was adjourned for the petitioners to file a reply to the Motion. No reply has been filed.

3. The case of the 1st respondent is that she was transferred to Mumbai on her request on account of her marriage in the year 1992. She has been placed as Junior Accountant as per the rules which also she is disputing. But that apart, her salary was sought to be reduced and, therefore, she filed an application in the Central Administrative Tribunal which came to be allowed. The Petition filed by the petitioners herein having been admitted, a stay was granted to the order of the Tribunal. The petitioners have, therefore, resorted to this recovery in view of the stay granted by the High Court and they have sent her a communication on 27th August 2004.

4. In our view, this is a matter where the recovery can certainly wait. The 1st respondent has some more years of service i.e. until 31st July 2018. Mr.Karkera states that in the event the Petition filed by the Central Government is, in any way, allowed, the 1st respondent is agreeable to appropriate deductions being made at that time.

5. In view of the fact that the Motion has not reached at all this time, the petitioners have

made recovery from October 2004 onwards. However, it will be in the fitness of things that no such deductions should be made hereafter. Hence, we allow this Motion in terms of prayer clause (a) with the modification that the deductions will not be made now from the month of February 2005. This is on the statement of Mr.Karkera that in the event the Petition is allowed, the 1st respondent is agreeable to appropriate deductions being made thereafter.

6. Motion is made absolute as above.

7. Main Petition be listed High on Board for final hearing on 13th March 2006.

(H.L. GOKHALE, J.)

(ABHAY S. OKA, J.)